

1 Q. All right. Let's move on to a different
2 subject, which would have been, as I understand it,
3 a telephone call that was initiated by Mr. Davis to
4 you, as mayor of the city, in April of 2006. And I
5 want to invite your attention, so we have accurate
6 testimony from you, to Exhibit 21. And if you could
7 please identify what this document is?

8 A. It's a message, just a memo that I received
9 from the secretary, Camara, like I receive several a
10 day.

11 Q. Camara, how is that spelled?

12 A. C-A-M-A-R-A.

13 Q. Is that your secretary?

14 A. Actually, she acts as secretary for both
15 the city manager and myself.

16 Q. And is it your understanding that she
17 filled out and wrote this message?

18 A. Yes.

19 Q. And what is the date that it shows?

20 A. 4/17.

21 Q. And that would have been the year 2006?

22 A. Yes.

23 Q. And it's partially blocked off there, but
24 it looks like 12:30 or something?

25 A. Yes.

1 Q. Is that a fair statement? Would it just
2 have been after the noon hour on that date, after
3 the noon hour?

4 A. Yes, sir.

5 Q. And it shows the phone number of Mr. Davis?

6 A. Uh-huh.

7 Q. And can you read for us what the brief
8 message is there?

9 A. City proposals. He would not speak with
10 anyone else.

11 Q. And do you remember receiving that message
12 from Camara on that date?

13 A. I -- not specifically this message, but I
14 receive messages every day. But, yes, I do remember
15 receiving this message and returning the phone call.

16 Q. Okay. And when you say you returned the
17 phone call, did you, in fact, get Mr. Davis on the
18 phone when you tried to reach him back?

19 A. I think I did. I think I did the first
20 time, if I'm not mistaken. I'm not real sure, but I
21 think I did.

22 Q. Move on to Exhibit 22. And this is a
23 statement apparently from a Mr. David Davis and
24 signed by him, and you see at the top there it bears
25 the date of April 19, 2006, which would have been

1 just two days after the phone conversation that you
2 had with Mr. Davis.

3 A. Uh-huh.

4 Q. And it's fairly short, so let me quote it.
5 It's addressed to Wallace Hunter, Fire Chief of the
6 city. It says, quote, on Monday, April 17, 2006, I
7 placed a call to Mayor Jeff Hardin's office. As
8 president of the Phenix City Firefighters'
9 Association Local 3668, I made this call in regards
10 to some labor issues in which I had concerns with.
11 Mayor Hardin returned my call later that evening,
12 and we discussed the issues which I wanted to
13 address, end quote. You see where it says that?

14 A. Yes.

15 Q. As far as you know, is that an accurate
16 statement of Mr. Davis?

17 A. It is. With regards to as president of the
18 Phenix City Firefighters' Association, that was --
19 that was something that's put in this letter. You
20 know, my message, you know, to him was to call David
21 Davis. We sent a letter to the association that all
22 the correspondence through the association should go
23 through the city manager. Actually, the city
24 council sent a letter to the association with all of
25 our agreeance -- unanimously agreed to all -- any

1 association issues would be taken up with the city
2 manager. So, basically, he would be our
3 spokesperson.

4 Q. When you returned the call to Mr. Davis on
5 the evening, apparently, of April 17, 2006, what
6 were the issue or issues that Mr. Davis discussed
7 with you in that telephone conversation?

8 A. It was about the ordinance that we were
9 going to pass to change the probationary time for
10 employees of public safety.

11 Q. And did Mr. Davis, in that telephone
12 conversation with you, express concerns that he and
13 other firefighters had about that particular
14 proposed ordinance?

15 A. I don't remember how he worded it, but he
16 did say he had concern. I don't know if they were
17 his concerns or that he said there were other
18 concerns, but he said that there were some concerns
19 about the changing of the probationary time.

20 Q. And what concerns did he express on behalf
21 of himself and the other members?

22 A. He didn't like the fact that the
23 probationary time was going to be extended.

24 Q. Did he say why?

25 A. I -- I don't recall, but he didn't like the

1 fact that it was going to be extended.

2 Q. Did he express concerns that that might
3 have an adverse impact on recruitment of new
4 firefighters into the department or perhaps an
5 adverse impact on employee morale in the fire
6 department?

7 A. I don't know the specific reasons why he
8 had a problem with it, but he just said that -- my
9 conversation, what I understood, he just didn't like
10 the fact that it was going to be extended.

11 Q. But you don't recall right now reasons that
12 he gave to you on behalf of himself and the members
13 about extending the probationary period?

14 A. I don't remember exactly what he said
15 about -- I know that his issue was with,
16 specifically, the extension of the probationary
17 period.

18 Q. And was there, in fact, a proposed
19 ordinance that was coming before the city council on
20 that matter?

21 A. Yes. Actually coming up for a final vote.
22 We had actually already placed it on the -- if I
23 remember correctly, we had already placed it on
24 first reading, and it was going to a final vote.

25 Q. And who within the city had proposed that

1 new policy or new ordinance?

2 A. The city manager brought it to the city
3 council, but it was recommended to us -- it was
4 recommended by the police chief, the fire chief, and
5 the city manager.

6 Q. Was that going to be a new policy
7 applicable to the police department as well?

8 A. Yes.

9 Q. And what was the underlying reasons or
10 rationale for the fire department and the police
11 department and the city manager to propose that
12 extension of the probationary period?

13 A. And that was the question, of course, we
14 asked as a council. And we were told that basically
15 what happens is the training period is so long for
16 both police and firemen, that there was not an ample
17 opportunity for the employee to come to work and be
18 evaluated within that probationary period that was
19 on the books at that time. So they felt -- both the
20 police and the fire chief and city manager felt like
21 extending that would allow both the employee and the
22 leadership in both of those departments at the time
23 to get a true evaluation of what the job is
24 physically within the constraints of the job and not
25 just within training. So we thought that was a

1 reasonable explanation of why they wanted that done
2 and that's why we passed it.

3 Q. So it was passed and it was implemented?

4 A. Yes.

5 Q. Okay. Then returning to the telephone
6 conversation you had with Mr. Davis on April 17, do
7 you recall anything else that was discussed by you
8 or by Mr. Davis in that telephone discussion?

9 A. I don't recall anything. I just remember
10 the -- kind of the reason for the call was to
11 express his concerns about extending the -- and I
12 actually think he made a recommendation. I don't
13 remember what that was, but I think he recommended
14 something different than we had proposed.

15 Q. Did he recommend or submit a proposal to
16 you in that telephone conversation to keep the
17 probationary period the same or to change it to some
18 other period of time?

19 A. I think his proposal was to change it to
20 some other period of time.

21 Q. Do you remember what period that was?

22 A. I don't -- it had something to do with --
23 if I recall correctly, it had something to do with
24 the amount -- after the amount of training when that
25 person is put in place. Instead of going to a set

1 amount of time, which I don't remember the
2 specifics, I think it -- but his was, you know, to
3 change -- if I'm not mistaken, it was to change
4 based on -- it was something different between what
5 we had on the books and what we were proposing. It
6 was something different than that.

7 Q. But you don't remember precisely?

8 A. I don't remember precisely.

9 Q. But this policy change that was implemented
10 extending the probationary period in the fire and
11 police departments from one year to 18 months, that
12 solely applied to new hires into those departments;
13 is that your understanding?

14 A. That's what we understood, yes, sir.

15 Q. So that change in the probationary period
16 would have had no application to veteran
17 firefighters who had been working for the fire
18 department for a period of years?

19 A. No, sir. And those questions were brought
20 up.

21 Q. At the council meeting?

22 A. Yes.

23 Q. And could you elaborate on that, please?

24 A. Just that that was asked; you know, who
25 does this apply to. And, of course, the ordinance

1 spelled it out, but sometimes there's a lot of
2 legalese in there, so you want to make sure, in
3 layman's terms, you understand exactly what it
4 says. So I know that that was brought up at the
5 meeting. Someone asked that question.

6 Q. So that new policy or ordinance of the city
7 extending the probationary period would not have had
8 any application to David Davis being a veteran
9 employee of the fire department, correct?

10 A. No, sir, not as we understood it.

11 Q. It would not have applied to him as an
12 employee?

13 A. Correct.

14 Q. So is it fair and accurate to say that in
15 your telephone conversation with Mr. Davis on
16 April 17, 2006, he was not raising this issue of
17 extending the probationary period because he had any
18 individual grievance or employee concern because it
19 didn't apply to him; is that a fair statement?

20 A. I don't know if he -- because I remember
21 talking with him, and I don't know if he completely
22 understood what the ordinance said. I think there
23 were some questions as to what the ordinance
24 actually applied to, and if it applied to -- because
25 I remember him asking some questions about the

1 ordinance and it was not -- if I remember correctly,
2 it was not a long conversation, but it was -- I
3 think there were some questions about it, you know.
4 I think when it was going to come up or, you know,
5 what it applied to.

6 Q. But in terms of the scope or application of
7 extending the probationary period, just so the
8 record here is clear, it was your understanding and
9 the understanding of the city council that it would
10 have no application to veteran employees of the fire
11 department, correct?

12 A. I think --

13 Q. It applied only to new hires?

14 A. If I'm not mistaken, it applied to new
15 employees, and I think if there was a new job title
16 or new job promotion, that it applied to those
17 employees also, if I remember correctly. It's been
18 a long time since I read -- well, I didn't go over
19 that ordinance before our meeting, so I don't
20 exactly remember that it says.

21 Q. In the past at city council meetings, have
22 employees of the city appeared before the city
23 council to express their position or concerns on
24 issues?

25 A. No.

1 Q. You don't remember any time that an
2 employee of the city has come before the city
3 council?

4 A. Yes. There's been times where employees
5 have -- during my previous council, we had an
6 employee that came in front of the city. And then
7 we also had -- if I'm not mistaken, during my
8 previous council term, there was some kind of either
9 public hearing or something where we had a group of
10 firefighters at a meeting. I don't know if it was a
11 work session or public hearing or council meeting,
12 but there was a group of firemen at the meeting. I
13 don't really remember the whole conversation or why
14 they were there, but I remember --

15 Q. And that was when you were a city council
16 member?

17 A. Yes.

18 Q. Do you remember what the subject matter was
19 that was raised by the firefighters?

20 A. I do not. I don't remember specifics, but
21 remember a group of firefighters being there.

22 Q. And after that meeting with a group of
23 firefighters and the city council, do you know if
24 any other firefighters were disciplined in any way
25 for appearing before the city council?

1 A. I don't know. I mean, I wouldn't know
2 that.

3 Q. Mr. Mayor, let me invite your attention to
4 Exhibit Number 23. And this appears to be a
5 memorandum from Fire Chief Wallace Hunter addressed
6 to the City Manager, H.H. Roberts, dated April 20,
7 2006. It shows a copy being sent to Barbara
8 Goodwin, the Personnel Director of the city, and the
9 re line indicates Sergeant David Davis, Merit System
10 and SOP violations. Have you ever seen this memo
11 before today?

12 A. No.

13 Q. Okay. Why don't you read that completely
14 to yourself? It's fairly short.

15 MR. WOODLEY: In the meantime, why don't we
16 take a five-minute break. Does that sound
17 good?

18 MR. GRAHAM: Yes.

19 (Brief recess.)

20 MR. WOODLEY: Back on the record.

21 Q. Mr. Mayor, I think just before we took this
22 brief break, I was inviting your attention to
23 Exhibit Number 23 in front of you and, once again,
24 this is a memo from Fire Chief Hunter to City
25 Manager Roberts dated April 20, 2006, a copy going

1 to the Personnel Director, Ms. Goodwin. And you've
2 had an opportunity to carefully and fully read this
3 document, correct?

4 A. I have, yes, sir.

5 Q. And have you seen this particular document
6 before today?

7 A. No.

8 Q. Let me invite your attention to a couple of
9 statements in this memorandum. In the very first
10 paragraph, first sentence, it says, quote, this memo
11 is to inform you about a conversation between
12 Personnel Director Barbara Goodwin and myself about
13 the city's new probation time for new hires for
14 Public Safety, end quote. You see where it says
15 that?

16 A. Yes.

17 Q. Once again, so it's at least clear in my
18 mind, that new policy applied to new hires for
19 Public Safety. Is that accurate?

20 A. Yes.

21 Q. Then further down in this document, the
22 third paragraph says, quote, David Davis has made it
23 clear that he will not adhere to our merit system
24 grievance process or the department and city
25 Standard Operating Procedures. Then it goes on to

1 say -- addressing you -- Mayor Hardin should refer
2 any employee violating the chain of command, as
3 indicated in our merit system, back to their
4 department head, personnel department, or city
5 manager. Failing to do so is a violation of our
6 city charter, end quote. See where it says that?

7 A. I do.

8 Q. It sounds to me like Chief Hunter is
9 telling City Manager Roberts and Ms. Goodwin that
10 you have violated the city charter. Do you have a
11 reaction to that?

12 A. You know, first of all, I don't think that
13 Chief Hunter is an attorney, so his interpretation
14 of the charter is, you know, I guess like anybody
15 else, you can read it and get an interpretation that
16 you want. I don't -- you know, I don't really
17 have -- like I say, I'm just surprised to read this.

18 Q. Would you agree with his statement that
19 your communication on the telephone with Mr. Davis
20 about the probationary period policy was a violation
21 of the city charter by you?

22 A. No.

23 Q. You don't agree with that?

24 A. No.

25 Q. When you say you don't agree with that,

1 could you please tell me why you don't agree with
2 it?

3 A. Well, the conversation -- the charter is
4 very specific in what it states. The charter is not
5 set up to where the mayor or council members can not
6 talk to city employees. I mean, that's ridiculous.
7 The interpretation is ridiculous, to even think
8 that.

9 The charter is set up to where the mayor and
10 the city council does not order or direct employees
11 to any action. There's a specific line between the
12 day-to-day operations of what the city manager and
13 the department head's duties are versus what the
14 city council's duties are. So the charter -- the
15 intent of that portion of the charter that I'm
16 assuming that this is -- it doesn't have anything to
17 do -- you know, if that's the case, there would be
18 no communication whatsoever -- hello, how are you
19 doing, how was your birthday or your Christmas --
20 there would be no communication whatsoever, because
21 that could be perceived as communication between
22 employees and council.

23 Q. As the mayor, do you believe that it's
24 consistent with your rights and responsibilities to
25 have conversations with city employees about issues

1 that affect the city or the operations of certain
2 departments?

3 A. You said do you think it's my right? Is
4 that what you said?

5 Q. Yes. Let me rephrase the question so it's
6 clear. You indicated earlier that you have an open
7 door policy, and you appear to me to be an
8 individual that's willing to communicate with
9 people, and it's part of your job as mayor.

10 Do you feel like you're prohibited and barred
11 from discussing with city employees issues or
12 policies that affect the city or the department in
13 which the employee happens to work?

14 A. I think, for the proper operation of the
15 city, that I don't need to get involved. I think
16 there is a -- at some point, there may be a
17 misunderstanding of who you work for if you get
18 involved in the day-to-day operations. So, you
19 know, the fact that you listen to what people have
20 to say is different than acting upon it or how you
21 carry that out. You know, as a matter of fact, it
22 says in that letter here that things should be
23 reported to the department head or personnel
24 department or the city manager. You know, my
25 conversations are not with department heads or the

1 personnel director; they are with the city manager.
2 So there's a misunderstanding there. But I think
3 that in my position, you have to listen to all
4 people. It's just a matter of what you do with that
5 information. And typically what I do is try to
6 go -- to sort out and try to determine on my own
7 what is relevant, and then carry the relevant
8 information to the city manager.

9 Q. Is it fair and accurate to say in your job
10 and position as a city mayor, that you're looking to
11 collect information, whether it's from city
12 employees, about issues affecting a department or
13 other subjects so that you can better do a job as
14 mayor in collecting that information and doing your
15 duties?

16 A. Well, that's what we have to do, to do an
17 effective job, yes.

18 Q. Later on in this memo -- again, Exhibit 23,
19 the memo from Mr. Hunter to Mr. Roberts -- at the
20 end on page two it says, quote, I also feel very
21 strongly that someone should speak with Mayor Hardin
22 about this sensitive issue of interfering with the
23 jobs that department heads are trying to do to keep
24 their departments running smoothly and effectively,
25 end quote. You see where it says that?

1 A. Very clearly.

2 Q. Did you feel like that your conversation on
3 the telephone with Mr. Davis on April 17, 2006, was
4 an interference with the fire department operations?

5 A. I do not.

6 Q. And why do you say you do not agree with
7 that?

8 A. You know, I guess -- what do you do with
9 that information if you -- if I heard and listened
10 to what was said, you know, the interference would
11 go in if I went into the fire department and tried
12 to change the way they did business, or met with the
13 chief and tried to change their recommendation from
14 the probationary time. That would be an
15 interference.

16 And I don't -- you know, I don't think, you
17 know, listening to what someone has to say that you
18 are interfering with the job that the department
19 heads are trying to do. So, you know, from my
20 standpoint, I heard exactly what was said and -- but
21 I didn't interfere with the department head or what
22 the chief was trying to do in his department.

23 Q. So in other words, the telephone
24 conversation you had with Mr. Davis on April 17,
25 2006, in which he evidently expressed concerns about

1 the proposed extension of the probationary period,
2 that conversation, in and of itself, with you did
3 not interfere or disrupt the operations or
4 efficiency of the fire department, did it?

5 A. Not as I know of, no.

6 Q. And after that telephone conversation with
7 Mr. Davis, did you communicate with anyone the fact
8 that you had had this telephone conversation with
9 Mr. Davis?

10 A. I did.

11 Q. And who did you tell?

12 A. I think we were leaving one evening and, if
13 I'm not mistaken, we were standing between my office
14 and the city manager's office. And I think
15 Mr. Roberts was there and Ms. Goodwin, the personnel
16 director, was there, and I made a comment -- I don't
17 know if the fire chief was there or not, but I made
18 the comment that Mr. Davis had called me about the
19 extension of the probationary time.

20 Q. Did you say anything beyond that?

21 A. No.

22 Q. Okay. And what was the response of the
23 individuals when you communicated that Mr. Davis had
24 called you about the probationary period?

25 A. No response to me.

1 Q. They didn't say anything like, well, gee,
2 that's outrageous, that broke the chain of command,
3 they should be not talking to you, Mr. Mayor,
4 anything like that?

5 A. I was kind of -- we were all on the way out
6 the door, so there was really no conversation with
7 me. If they had conversation after that, I was not
8 privy to that.

9 Q. In that conversation, or really at any
10 time, did you recommend that Mr. Davis be
11 investigated or charged or disciplined because he
12 had a telephone conversation with you?

13 A. No.

14 Q. Did you ever suggest or request that
15 Mr. Davis be terminated for that conversation with
16 you?

17 A. No.

18 Q. Did you ever authorize or approve
19 Mr. Davis's termination from his employment with the
20 city?

21 A. No.

22 Q. Based upon all the circumstances and
23 information that you have, Mr. Mayor, do you think
24 it was fair and appropriate that Mr. Davis be
25 terminated because he had a telephone conversation

1 with you on April 17, 2006?

2 A. Well, that's not my decision. Employees
3 don't work for me.

4 Q. Oh, I understand that's not your decision.
5 But as an individual and as the mayor of the city,
6 do you think that was fair and reasonable, that he
7 be fired, as an 8-year veteran of the fire
8 department, because he had a telephone conversation
9 with you about the proposed change in the
10 probationary period?

11 A. I'm not privy to the employees' records or
12 their performance on the job, so I don't -- I can't
13 really make that conclusion, because it's -- I
14 think -- I mean, I owned a business and, typically,
15 you have, you know, records of an employee's
16 performance, good or bad, that lead up to either
17 them being promoted or rewarded or terminated or
18 disciplined. So I can't make that call, you know,
19 based on the information that I have, because I
20 don't have -- I have very little information.

21 Q. Okay. But again, based upon what you know,
22 focusing on the telephone conversation that you had
23 with Mr. Davis on April 17, 2006, if you as mayor
24 had the authority to terminate city employees, would
25 you have terminated Mr. Davis for that telephone

1 conversation?

2 A. Again, I say that, you know, depending on
3 what --

4 Q. I'm just talking about --

5 A. -- what led up to that.

6 Q. I'm just talking about --

7 A. If you said --

8 THE REPORTER: Hold on. Hold on. Y'all
9 are talking over each other and y'all need to
10 slow down.

11 Q. Let me rephrase it. Again, we just
12 reviewed that the reason for his termination was the
13 communication with you by the telephone. So just
14 focusing on that reason or that single basis for his
15 discharge, if you had the authority as mayor to
16 terminate city employees, would you have fired
17 Mr. Davis because of his telephone conversation with
18 you?

19 MR. GRAHAM: Can we go off the record for a
20 minute?

21 MR. WOODLEY: Sure.

22 (Discussion held off the record.)

23 MR. WOODLEY: Let's go back on the record.

24 Q. Mr. Mayor, let's try this one more time.
25 If you, as the mayor, did have the authority to

1 terminate city employees, would you have fired
2 Mr. Davis because solely of that telephone
3 conversation he had with you on April 17, 2006?

4 A. No.

5 Q. Okay. Did you ever mention to anyone
6 within the city's management structure that it was
7 unfair or unreasonable to terminate Mr. Davis?

8 A. My conversations with the city manager
9 were, you know, I heard that this employee had been
10 terminated and if, in fact, you know -- first, is it
11 true, you know, just kind of -- you know, this is
12 what I heard. So trying to get the clarification on
13 it because, you know, you hear a lot of things and
14 some of them just don't turn out to be true, they're
15 just rumors. I wanted to hear from the city manager
16 if it was true or not.

17 Q. And you had that discussion with him?

18 A. Yes.

19 Q. Did you express concerns that that was
20 perhaps unreasonable or unfair or should not have
21 been done with regard to the discharge of Mr. Davis?

22 A. I guess -- if I remember correctly, I guess
23 my interest was in finding -- in saying, you know,
24 was this -- was this, you know, based on this phone
25 call. So was this -- you know, when I made the

1 comment to you that I had gotten a call from
2 Mr. David Davis, is that what this is all about?
3 And then was told that, you know, basically this is
4 just part of -- you know, part of an evaluation.
5 You know, it's just part of a record. So at that
6 point, it became very clear that it was a personnel
7 issue and that it didn't have anything to do with
8 me.

9 Q. Do you recall if the city manager told you,
10 or anyone else told you, that in the past Mr. Davis
11 had spoken to the media and that there were
12 newspaper articles previously about issues involving
13 the operations of the Fire Department and Public
14 Safety, and that that was taken into account in
15 terms of the discharge of Mr. Davis?

16 A. I was never told that, no. I mean, I knew
17 he made the comments to the media because I had read
18 them and seen them, but not that that was a part of
19 the termination.

20 Q. Did anyone within the city, including the
21 City Manager or Chief Hunter, get back to you
22 concerning this criticism of your activities that we
23 discussed earlier in Exhibit 23 and tell you, as
24 mayor, you shouldn't be talking with city employees,
25 it's outside the chain of command, we think it's

1 contrary to the merit system regulations and you,
2 Mr. Mayor, shouldn't do that anymore. Did anyone
3 get back to you on that subject?

4 A. The only conversation I had concerning this
5 about -- not specifically about this memo. But
6 after this conversation took place my conversation
7 with Mr. Davis was that -- you know, was a reminder
8 from the city manager that we had passed -- we had
9 sent a letter, a unanimous letter, to him that he
10 was our -- he was our spokesperson for the city to
11 the association.

12 Q. I'm sorry. I'm not sure I followed you.
13 There was a subsequent document?

14 A. No, no, no. After our conversation, the
15 city manager -- and I'm assuming that it --

16 Q. And when you say our -- just so the record
17 is clear -- I'm sorry. I didn't mean to interrupt
18 you -- when you say "our conversation", which
19 conversation are you referring to?

20 A. This was after the conversation that we had
21 concerning Mr. Davis and I's conversation. And I'm
22 assuming --

23 Q. And who is "we"?

24 A. The city manager and I. Mr. Roberts and
25 myself.

1 Q. All right. Go ahead. I'm sorry?

2 A. He and I had a conversation, and he
3 reminded me that the city council had appointed him
4 as a spokesperson for the city council to the
5 association. And my response at that point was I
6 was returning a phone call to David Davis, not the
7 association -- which is what my message was, and
8 that was what my conversation was.

9 Q. And since you again addressed the telephone
10 conversation with Mr. Davis, did he tell you in that
11 conversation that he was expressing the concerns
12 that were shared by other firefighters with regard
13 to extending the probationary period?

14 A. I don't recall that, no, sir.

15 Q. You don't remember?

16 A. No, sir.

17 Q. Has there ever been a discussion between
18 you and city council members individually or
19 collectively that you had exceeded your authority
20 when you have conversations with city employees
21 about policy matters or department issues?

22 A. There was -- there was a conversation that
23 I had with the District Attorney concerning one of
24 our council members talking to him unofficially
25 about my conversations with a department head or,

1 actually, two department heads -- or not really
2 department heads; one chief and one assistant chief.

3 Q. And what was that about?

4 A. One was about the assistant police chief
5 and one of his officers told somebody that -- as he
6 was responding to a phone call, that we were about
7 30 officers short. And I questioned them on that.

8 And then the other was when Chief Hunter made
9 the comment apparently -- I don't know to the city
10 manager or one of our council members -- that I had
11 told him to change his position on a subdivision
12 fire code about the widths of the road.

13 And I had a conversation with the District
14 Attorney, and I just told him that I did have the
15 conversation with the assistant chief concerning his
16 comments about us being 30 officers short or however
17 many he said. I don't know if 30 was the right
18 number. Seems like that comes to mind. And that my
19 conversations with the fire chief, I was not
20 directing him to change his mind but I was asking
21 him about the fire codes.

22 Q. With regard to the termination of David
23 Davis, did you ever ask the city manager or Fire
24 Chief Hunter to reconsider the matter of Mr. Davis's
25 termination?

1 A. No.

2 Q. Do you have the authority as mayor to make
3 such a request for reconsideration of the
4 termination of the city employee?

5 A. No.

6 Q. Now, are you aware that Mr. Davis, after he
7 was discharged, appealed that termination to the
8 City Personnel Board?

9 A. Yes.

10 Q. Did you attend that hearing before the
11 Personnel Board?

12 A. No.

13 Q. Did you have any input into the members of
14 the Personnel Board about their deliberations or
15 their decision concerning his termination?

16 A. No. The only interaction that we had --
17 which we have no interaction, but we appoint the
18 Personnel Review Board members and that's -- then
19 they work on their own at that point.

20 Q. The members of the Personnel Board, is that
21 a compensated position?

22 A. No.

23 Q. Strictly volunteer?

24 A. Yes.

25 Q. Okay. Let me invite your attention to

1 several exhibits at the end of the binder, which are
2 newspaper articles, and you can start with
3 Exhibit 31, please. This appears to be a newspaper
4 report in the Columbus Ledger-Enquirer. And you'll
5 see the title there is PC Firefighters'
6 Representative Terminated. I assume PC stands for
7 Phenix City. And this is concerning, of course, the
8 discharge of David Davis. Do you remember seeing
9 this particular article in the newspaper?

10 A. I think I did, yes.

11 Q. On the right-hand column, there's a quote
12 from Mr. Davis, who was interviewed for this
13 article, in which he apparently said, quote, morale
14 is at the lowest point since I've been here, end
15 quote, that he mentioned in September of 2005.

16 Did it ever come to your attention as the mayor
17 that the morale in the fire department was low or
18 poor?

19 A. I had heard that because of seeing stuff
20 like this in the paper.

21 Q. Did that trouble you when you heard that,
22 when you saw that information in the paper or heard
23 that morale was bad in the fire department?

24 A. Well, certainly. It always -- and, of
25 course, it -- you know, what we try to do as the

1 city council is to make sure that if there are
2 issues like that, that the city manager is working
3 on those things.

4 Q. And you indicated earlier, Mr. Mayor, that
5 you did have at least one meeting with the city
6 manager concerning issues in the fire department
7 such as morale. Did you have any other meetings or
8 discussions with the city manager about how to work
9 on these concerns and improve them?

10 A. No.

11 Q. Just that one meeting?

12 A. And like I said, that was not just a
13 meeting. When I say -- we don't -- typically, we
14 don't meet to -- our meetings are more on the fly
15 than they are a plan. And, usually, when we sit
16 down and talk -- I'm only here part-time. So when I
17 come in, I have, typically, either a laundry list --
18 a physical laundry list or a list that I bring to
19 him, or e-mail and say, you know, this is what I've
20 heard or this is what I've seen or this is the kind
21 of things that -- and mine are more in line of
22 citizen complaints than they are employee
23 complaints. Because I just don't -- I don't hear
24 those type of things because -- for obvious reasons.

25 Q. Were you contacted by any newspaper or

1 media representatives after the discharge of
2 Mr. Davis concerning that very subject?

3 A. About his termination?

4 Q. Yes.

5 A. Yes.

6 Q. And did you respond to those inquiries by
7 the media?

8 A. Like I say, I typically don't respond on
9 personnel issues.

10 Q. But on this one, did you?

11 A. I don't think -- like I said, unless I'm
12 pushed, I just don't say anything. My comment is
13 typically, I don't comment on personnel issues, or
14 those are items that you need to speak to the city
15 manager about, or the personnel director. But,
16 typically, if it has to do with the city employee, I
17 refer them to the city manager.

18 Q. But other than typically -- in this
19 particular matter concerning the termination of
20 Mr. Davis, did you give any information or
21 communications to the media about his discharge?

22 A. No.

23 Q. Has anyone ever contacted you about the
24 further employment of Mr. Davis after he was
25 fired -- any potential employers or potential fire

1 departments -- about possibly employing Mr. Davis?

2 A. No.

3 Q. In the last two years since you have been
4 the mayor, have you considered possibly the removal
5 of Mr. Roberts as a city manager?

6 A. Yes.

7 Q. And could you tell us about that, please?

8 A. I don't see how it refers to this case, I
9 guess is -- I mean, could you please explain that to
10 me, how the removal of the city manager in the last
11 couple of months refers to --

12 Q. Sure. The city manager, Mr. Roberts, is an
13 individual defendant in this case, so his role in
14 terms of the discharge and his functioning on the
15 job is very important to us as an issue in this
16 lawsuit. So if, in fact, you have suggested, as I
17 understand, or recommended the removal of the city
18 manager perhaps for poor performance, we want to
19 know about that. So that's the purpose of my
20 question. So let me readdress the question one more
21 time.

22 A. Okay.

23 Q. Have you taken into account or considered
24 or recommended the possible removal of Mr. Roberts
25 as the city manager?

1 A. Yes, I have.

2 Q. And why did you do that and what were the
3 circumstances surrounding your position?

4 A. The circumstances surrounding my position
5 were the communications that we've had over the last
6 couple of months and his, I guess, inability to
7 communicate effectively with me, or at least what I
8 think is effective with me.

9 It's very difficult for a city manager to do
10 his job if he can't communicate with the mayor or
11 the city council members. And it's impossible for
12 the mayor and city council to do their job if they
13 can't communicate with the city manager.

14 But it had nothing to do with job performance.
15 It was more about communications and some reactions
16 that I've gotten from the city manager over some
17 issues that I've had.

18 Q. Okay. Well, you've been very general. So
19 could you be more specific in terms of poor
20 communications? What precisely do you mean that
21 raised your concerns about the city manager?

22 A. Well, on one particular issue, I brought
23 something to him, and his reaction was very short
24 and abrupt; and when I started talking to him about
25 that, his reaction was -- instead of thinking about

1 the response that he made that could have not set
2 very well with me, you know, his reaction was to get
3 upset and start raising his voice and turning red in
4 the face and saying, you know, is that it or
5 something to that -- you know, is that all you
6 wanted to talk about or something like that. So
7 that's --

8 Q. What was the topic that was discussed?

9 A. The topic that was discussed was about a
10 complaint that I had had from a lady in the city.
11 She had left me a voice mail.

12 Q. About what subject? What was the
13 complaint?

14 A. About the police department.

15 Q. Any other poor communications or concerns
16 that you had about the city manager which prompted
17 you to consider his removal?

18 A. Well, for some reason, when -- at certain
19 points where I've been critical of the city manager
20 on issues or critical of specific departments, he
21 gets very defensive and won't speak to me for a week
22 or whatever until I have to go in and say, you know,
23 what's the problem, you know, what do we need to do
24 to solve this problem? So -- and that, you know,
25 like I say, becomes an issue of communication, and

1 it just got to a place where I no longer wanted to
2 deal with that, and that's why I -- what prompted me
3 to send a letter asking for his resignation.

4 Q. What was his response to your letter asking
5 for his resignation?

6 A. He responded back that I needed two other
7 votes, a majority of the council, to remove him from
8 office.

9 Q. Did the issue of his possible removal come
10 up for a vote before the city council?

11 A. No.

12 Q. Didn't get that far?

13 A. No.

14 Q. Did you have a majority support if you had
15 proposed his removal?

16 A. No.

17 Q. And how long ago did this situation occur?
18 Just within recent months?

19 A. Yes. Very recently.

20 MR. WOODLEY: All right, Mr. Mayor. That's
21 all the questions that I have. I want to thank
22 you for coming to your deposition today.

23 (The deposition concluded at 10:38 a.m.)

24 * * * * *

REPORTER'S CERTIFICATE

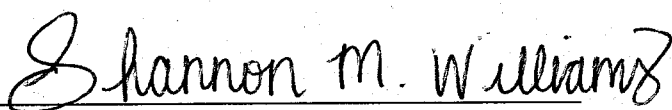
STATE OF ALABAMA

MONTGOMERY COUNTY

I, Shannon Williams, Certified Shorthand Reporter and Commissioner for the State of Alabama at Large, hereby certify that on April 4, 2007, I reported the deposition of JEFFREY SCOTT HARDIN, who was first duly sworn or affirmed to speak the truth in the matter of the foregoing cause, and that pages 1 through 78 contain a true and accurate transcription of the examination of said witness by counsel for the parties set out herein.

I further certify that I am neither of kin nor of counsel to any of the parties to said cause, nor in any manner interested in the results thereof.

This 8th day of April, 2007.


SHANNON M. WILLIAMS, CSR
Commissioner for the
State of Alabama at Large

MY COMMISSION EXPIRES: 1/14/2010

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